

HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

SHIRLEY JACKSON

Plaintiff,

v.

EJB FACILITIES SERVICES, INC., and
JOHNSON CONTROLS/IAP,

Defendant.

Case No. C-07-5358 RBL

ORDER

THIS MATTER comes before the Court on Defendant EJB Facility Services Joint Venture's¹ motion to dismiss pursuant to Fed. R. Civ. P. 12(b)(6). [Dkt. #7]. In plaintiff's complaint [Dkt. #1] she claimed that her employer, Johnson Control, and a potential employer, EJB Facilities Services, engaged in conduct that deprived plaintiff of specific civil rights. Plaintiff claims that defendants' actions violated Title VII by discriminating against plaintiff based on her gender, sexually harassed plaintiff, engaged in disparate treatment towards plaintiff, created a hostile work environment for plaintiff, and retaliated against plaintiff for filing a grievance regarding sexual harassment. In her response [Dkt. #16] to Defendant EJB Facilities Services' motion to dismiss, plaintiff withdraws her Title VII sexual harassment claim and her Title VII hostile work environment claim, and requests leave to amend her complaint to further support her remaining claims.

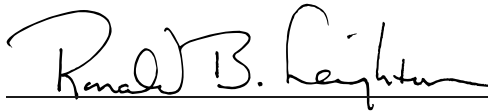
"A complaint should not be dismissed under Rule 12(b)(6) unless it appears beyond doubt that the plaintiff can prove no set of facts in support of [her] claim which would entitle [her] to relief." *Balistreri v.*

¹ Erroneously named in the complaint as EJB Facilities Services, Inc.

1 *Pacifica Police Department.*, 901 F.2d 696, 699 (9th Cir. 1990). Plaintiff has requested leave to amend her
2 complaint to add details necessary to support her Title VII gender discrimination, disparate treatment, and
3 retaliation claims. District courts should freely grant leave to amend when a viable case may be presented. *See*
4 Fed R. Civ. P. 15(a); *Lopez v. Smith*, 203 F.3d 1122, 1127 (9th Cir. 2000). After reviewing the plaintiff's
5 complaint, it appears to the Court that plaintiff may be able to state a viable case by amending her complaint
6 to include the additional facts she presented in her response in opposition to Defendant EJB Facilities Services'
7 motion to dismiss. Therefore, plaintiff's motion [Dkt. #16] for leave to amend her complaint is **GRANTED**.
8 Defendants' motion to dismiss [Dkt. #7] is **DENIED**. Plaintiff has **10 days** from the entry of this order to
9 submit her amended complaint.

10 IT IS SO ORDERED.

11 Dated this 11th day of December 2007.
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16 RONALD B. LEIGHTON
17 UNITED STATES DISTRICT JUDGE
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